

The Honorable Cynthia M. Rufe
United States District Court
Eastern District of Pennsylvania
James A. Byrne U.S. Courthouse
601 Market Street, Room 4000
Philadelphia, Pennsylvania 19106-1797
Telephone: 267-299-7490
Facsimile: 267-299-5077

GENERAL INFORMATION

1. Communications with Judge Rufe's Chambers

Judge Rufe permits communications with chambers via telephone, regular mail or facsimile (ten-page limit) regarding scheduling and other non-substantive matters. All other issues must be addressed by an appropriate motion or other filing. Transmittal of pleadings, motions or other filings by facsimile to chambers is not permitted.

Under no circumstances may any party or counsel communicate *ex parte* with any chambers personnel concerning substantive matters. Law clerks may not render advice to counsel and have no authority to grant continuances or any other relief. Telephone inquiries should be directed as appropriate to either of the following:

- Judicial Secretary/Civil Courtroom Deputy: Velma T. White
Telephone: 267-299-7490
Facsimile: 267-299-5077
Contact for matters related to civil scheduling and case management, requesting telephone conferences, and general procedures.
- ESR/Criminal Courtroom Deputy: Erica Pratt
Telephone: 267-299-7499
Facsimile: 267-299-7498
Contact for matters related to criminal scheduling and case management, and obtaining transcripts of civil and criminal proceedings.

2. Telephone Conferences

Counsel may arrange a telephone conference with Judge Rufe to resolve straightforward discovery disputes, but complicated matters should be resolved via formal motion and briefing. Counsel must exhaustively address all discovery disputes with opposing counsel before requesting Judge Rufe's assistance. Counsel for one of the parties must initiate all conference calls.

3. Stipulations/Consent Decrees

Any stipulations, consent decrees or other documents requiring Court approval/signature must be submitted in a form containing original signatures. Judge Rufe will not sign any document containing a duplicated signature of any counsel/party/representative.

4. Standing Orders

Judge Rufe has no standing Orders.

CIVIL MATTERS

1. Rule 26 Conferences

Judge Rufe relies on counsels' good faith compliance in all respects with Federal Rule of Civil Procedure 26(f). The Rule 26(f) meeting shall take place as soon as possible and, in any event, at least fourteen (14) days before the Rule 16 scheduling conference. Outstanding motions will not excuse counsel from timely holding the meeting and submitting a Rule 26 plan. Compliance is mandatory. The meeting should not be viewed as perfunctory but rather as a meaningful and substantive discussion among professionals to formulate the discovery plan required by the Rule. Parties who do not comply will have no voice at the scheduling conference and may be subject to additional sanctions.

2. Rule 16 Scheduling Conferences

Judge Rufe will issue an Order for a Rule 16 scheduling conference to be held in chambers. Counsel should read carefully all instructions contained therein. Attached to the Order will be a Scheduling Information Report, which must be completed and returned to chambers at least three days before the conference. For the convenience of out-of-state counsel, in some very limited circumstances Judge Rufe may conduct Rule 16 conferences via telephone.

Lead trial counsel must attend the Rule 16 conference and must enter her/his appearance prior to the conference unless Judge Rufe approves a substitution. If lead trial counsel is appearing pro hac vice, local counsel must also attend the conference. All applications to appear pro hac vice must be approved prior to the conference.

Any attorney appearing at the conference shall have evaluated the case for settlement purposes and have settlement authority from the client. Motions to dismiss, transfer, add parties and

other threshold motions should be filed before the conference. Counsel must be prepared to present argument at the conference on any pending motions.

After the conference, Judge Rufe will issue a Scheduling Order to govern further proceedings in the case. The Scheduling Order will usually include the requirements and deadlines set forth in the Sample Scheduling Order attached hereto at Appendix A.

3. Settlement Conferences

Judge Rufe addresses the possibility of settlement at all stages in the proceedings. In addition, consistent with Local Rule 53.3, Judge Rufe directs all parties to consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. United States Magistrate Judge Carol Sandra Moore Wells is available to conduct settlement conferences in civil matters, and Judge Rufe strongly encourages litigants to avail themselves of Judge Wells' skillful assistance.

If for any reason counsel desires a continuance of a settlement conference listed before Judge Wells, counsel must contact Judge Wells' chambers directly. However, if the requested continuance exceeds fourteen (14) days, counsel must receive Judge Rufe's approval before contacting Judge Wells' chambers.

4. Pretrial Conferences

Judge Rufe regularly lists a pretrial conference date in the Scheduling Order. Pretrial conferences are typically scheduled for the weeks preceding the trial pool to which a case is assigned. Counsel should read carefully all instructions contained in the Scheduling Order. Judge Rufe utilizes the pretrial conference to resolve any motions in limine and other pretrial matters, and to discuss voir dire and other trial procedures.

5. Requests for Extensions of Time

Where compelling circumstances so require, counsel may request an extension of a filing or other deadline only if such request has no effect on other existing deadlines. Judge Rufe will extend the deadline for filing dispositive motions or a trial pool date only in very limited circumstances and where genuinely necessary. If a request for an extension is unopposed, counsel must so state and may submit the request via letter or joint stipulation. Opposed requests must so state and be filed as a motion.

6. Pretrial Settlement

Upon reaching a settlement, counsel must notify Judge Rufe's chambers immediately and

request dismissal of the action pursuant to Local Rule of Civil Procedure 41.1 or some other procedure that will effectively terminate the litigation.

7. Motions Practice

For summary judgment motions filed pursuant to Federal Rule of Civil Procedure 56(b), Judge Rufe utilizes the form and schedule outlined in Attachment 1 to the Sample Scheduling Order (Appendix A hereto). For all other motions, Judge Rufe follows the requirements of Local Rule of Civil Procedure 7.1. Reply and sur-reply memoranda may only be filed with leave of Court. Counsel should file a motion requesting leave to file an additional memorandum and attach the proposed memorandum as an exhibit.

Judge Rufe appreciates courtesy copies of *significant* motions, memoranda of law and other pleadings, but requests that counsel send to chambers only one courtesy copy. Transmittal of courtesy copies by facsimile is not permitted.

Unless oral argument is requested and may be useful, Judge Rufe regularly decides motions on the papers.

8. Trial

Judge Rufe's Scheduling Order will usually assign a case to a two-week trial pool. The list of matters to be tried is published in *The Legal Intelligencer*; however, that list is subject to modification. All parties, witnesses and counsel can expect their case to be tried during the trial pool period and should arrange their schedules accordingly. Judge Rufe will make every effort to notify counsel at least three business days in advance of the day trial is to commence. At the request of counsel, Judge Rufe may list non-jury trials or complex matters for a special listing/date-certain. Judge Rufe will utilize the pretrial conference to discuss specific trial procedures. Counsel should contact chambers 3-4 days in advance of trial for courtroom assignment.

For any civil litigation issues not addressed above, please consult the Local Rules of Civil Procedure for the Eastern District of Pennsylvania, available at

<http://www.paed.uscourts.gov>

CRIMINAL MATTERS

1. Motions Practice

All pretrial motions must be filed no later than thirty (30) days in advance of the scheduled trial date, and except in rare circumstances will be heard on a date prior to the scheduled trial date. Counsel are advised to provide Judge Rufe with supporting memoranda no later than the date of the hearing.

2. Continuances of Trial

Any request for a continuance must be filed no later than fourteen (14) days in advance of the scheduled trial date. Requests for a continuance must be filed as a motion stating the reasons for the request. Any such motion must be accompanied by a proposed form of Order which, if approved by the Court, would grant the relief sought by the motion. The proposed form of Order **must** be consistent with the requirements of the Speedy Trial Act, 18 U.S.C. § 3161(h)(8) and include a proposed finding that explains in reasonable detail why the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. Requests by letter are not permitted.

3. Pretrial Conferences

Judge Rufe will schedule a pretrial conference with counsel at least three (3) days prior to the scheduled trial date and may be conducted by telephone in limited circumstances. Any issues related to voir dire, motions in limine, jury instructions and jury verdict forms will be addressed at that time.

4. Voir Dire

Judge Rufe conducts extensive voir dire in criminal jury matters. Counsel are permitted to address the venire with follow-up questions.

5. Sentencing

Judge Rufe will schedule a speedy sentencing for a date selected at the time the Court accepts a guilty plea or there is a conviction at trial. Judge Rufe discourages continuance of sentencing, and sentencing will be continued for good cause only. Judge Rufe will not consider any request for a continuance exceeding ninety (90) days.

In the rare event of a ninety (90) day continuance, if both counsel for the Government and the

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REVISED JUNE 10, 2004

CYNTHIA M. RUFÉ, J.

defendant(s) believe that good cause exists for an additional continuance beyond the ninety-day period, counsel may jointly request in writing an additional continuance. Any such request must state why good cause exists for an additional continuance. If Judge Rufe grants such a request, counsel shall be required to submit in writing a joint status update every thirty (30) days until judgment of sentence is entered.

Sentencing motions and supporting memoranda must be filed at least fourteen (14) days prior to the scheduled sentencing date, and any response thereto must be filed at least seven (7) days prior to the scheduled sentencing date.

Sentencing memoranda (exclusive of motions) must be filed no later than seven (7) days prior to the scheduled sentencing date, and any response thereto must be filed at least three (3) days prior to the scheduled sentencing date.

Appendix A - Sample Scheduling Order

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**[JOHN DOE],
Plaintiff**

v.

**[JANE ROE],
Defendant**

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:
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:
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:
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:
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:

**CIVIL ACTION
NO. 04-[]**

SCHEDULING ORDER

AND NOW, this [] day of [], 2004, after a Rule 16 conference with counsel, the Court hereby enters the following Scheduling Order to govern further proceedings in this case:

1. The parties are hereby granted leave to file any amended pleadings, including those adding or deleting parties, within forty-five (45) days of the date of this Scheduling Order;
2. Fact discovery shall be completed by [];
3. Plaintiff shall produce its expert report(s) by **[close of fact discovery]**; Defendant shall produce its expert report(s) by **[30 days after Plaintiff's service deadline]**; all expert discovery, including depositions, shall be completed by **[30 days after Defendant's service deadline]**;
4. All motions for summary judgment and partial summary judgment shall be filed on or before **[30 days after close of all discovery]**. The parties shall conform their motions and any responses, replies, or sur-replies to the form and schedule outlined in Attachment 1;

Appendix A - Sample Scheduling Order

5. The case shall be referred to Magistrate Judge Carol Sandra Moore Wells for a settlement conference. Counsel for the parties are directed to report to Judge Wells's chambers (Room 3016) on [_____]. The parties and/or persons with full authority to settle **must** accompany counsel unless excused in advance by Judge Wells.

6. The parties, through counsel, shall jointly report to the Court in writing on or before [_____] with respect to whether the case is settled. In the event the case is not settled on or before [_____], counsel shall include in their joint report a statement as to whether they believe a settlement conference before a magistrate judge, mediation under new Local Civil Rule 53.3 (a copy of which is attached hereto as Attachment 2) and the Mediation Protocol Under Local Civil Rule 53.3, or some other form of alternative dispute resolution might be of assistance in resolving the case and, if so, on what form of alternative dispute resolution they agree and by what date they will be prepared to commence such proceedings;

7. A final pretrial conference will be held on [_____]. At least one of the attorneys for each party shall have the authority to enter into stipulations and to make admissions regarding all matters.

Final pretrial memoranda shall be filed pursuant to Local Rule of Civil Procedure 16.1(c) and shall contain all items listed in that rule, including the following: a jurisdictional statement; statement (or, in Defendant's memorandum, counterstatement) of the facts of the case; damages computation, or description of other relief sought; list of intended witnesses, designated separately for liability and damages; schedule of exhibits to be offered at trial; estimate of required

Appendix A - Sample Scheduling Order

trial time; and special comments regarding legal issues, stipulations, amendments of pleadings, or other appropriate matters. Plaintiff shall file its pretrial memorandum **[approximately four weeks prior to the final pretrial conference]**. Defendant shall file its pretrial memorandum by **[approximately ten days after Plaintiff files its pretrial memorandum]**.

In addition to the above, if applicable, each party is required to submit the following in conjunction with the pretrial memoranda: proposed voir dire questions, proposed jury instructions (one point per page), proposed jury interrogatories, a trial memorandum on the legal issues involved in the case, and any motions in limine. The failure to submit proposed jury instructions may result in the forfeiture of your right to object to omissions in jury charge. If possible, counsel should provide the Court with copies of the proposed jury instructions and jury interrogatories on 3.5" IBM compatible computer diskettes, in a format readable by WordPerfect 9. If this is a non-jury trial, each party is required to submit proposed findings of fact and conclusions of law on the date on which its pretrial memorandum is due.

In preparation for the final pretrial conference, counsel are expected to communicate with each other on the following matters in an effort to reach agreement or, if agreement is not possible, to submit, the precise points in dispute, in writing, in a joint statement on the following: (a) agreed upon and disputed facts; (b) objections to any proposed witnesses; (c) objections to any proposed exhibits (including objections to genuineness and authenticity); (d) objections to any depositions to be read at trial; (e) disputed legal issues; (f) amendments to pleadings; (g) stipulated to and disputed points for charge; (h) verdict sheet and special interrogatories; and (i)

Appendix A - Sample Scheduling Order

number of days required for trial.

8. Trial is scheduled for a [_____] trial pool.

It is so **ORDERED**.

BY THE COURT:

CYNTHIA M. RUFÉ, J.

Appendix A - Sample Scheduling Order

Scheduling Order Attachment 1

Judge Rufe's Required Procedure on Summary Judgment for Those Moving under Rule 56(b)

Rule 56(b) of the Federal Rules of Civil Procedure provides that:

A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in the party's favor as to all or any part thereof.

1. **Initial Filing of Moving Party:** A party referred to in Rule 56(b) and moving under Rule 56(b) may move without reference to supporting affidavits or other evidence and, in doing so, the party making the motion shall:
 - (1) identify in outline form the issue(s) and/or sub-issue(s) as to which the Motion is directed, for example, referring to the pleadings;
 - (2) affirm, on the basis prescribed in Rule 11, that there is no legally sufficient evidentiary basis to support the issues so identified; and
 - (3) request judgment as provided in Rule 56(c).
- Note: The initial filing by the moving party generally should not exceed three (3) double-spaced, type-written pages.*
2. **Response of Non-Moving Party:** The party against whom the Motion for Summary Judgment is addressed shall file a Response not later than 14 days after the Motion for Summary Judgment is received. The Response, subject to provision of Rule 56(e) and (f), shall be supported with affidavits, depositions, documents or other evidence permitted by those provisions. Where applicable, references to such evidence must include **specific** citations to exhibit, page, and line number.
3. **Reply of Moving Party:** The movant shall file a Reply as permitted by Rule 56(e) and (f). Such a Reply must be filed not later than 10 days after the Response described in paragraph (b) is received. The Reply must **specify** the relevant exhibit, page, and line numbers when referring to the record.
4. **Sur-Reply of Non-Moving Party (Optional):** The party against whom the Motion for Summary Judgment is directed may, within 10 days after the Reply is received, file a Sur-reply to the reply described in paragraph (d) above. The Sur-reply must **specify** the relevant exhibit, page, and line numbers when referring to the record.

The purpose of these Instructions is to encourage the parties in their dispositive motion to track the natural order of trial where the plaintiff sets forth its cause and the defendant then responds.

Appendix A - Sample Scheduling Order

Scheduling Order Attachment 2

LOCAL RULE OF CIVIL PROCEDURE 53.3: ALTERNATIVE DISPUTE RESOLUTION

- I. Litigants in all civil actions, exempting only social security appeals, pro se prisoner civil rights actions, and petitions for habeas corpus, shall be required to consider the use of an alternative dispute resolution process (the “ADR process”) at an appropriate stage in the litigation.
- II. ADR processes may include mediation and settlement conferences and such other ADR processes as the judge to whom the case is assigned (the “assigned judge”) may designate.
- III. All ADR processes subject to this Rule shall be confidential, and disclosure by any person of confidential dispute resolution communications is prohibited unless confidentiality has been waived by all participants in the ADR process, or disclosure is ordered by the assigned judge for good cause shown.
- IV. Nothing in the Rule shall be construed to limit the assigned judge from (a) conducting settlement conferences or referring a matter to a magistrate judge for a settlement conference, or (b) ordering the litigants to participate in an ADR process, or (c) approving or disapproving of an ADR process selected by the litigants.
- V. The Alternative Dispute Resolution (“ADR”) Committee of the court shall administer, oversee, and evaluate the court’s ADR program in accordance with the Alternative Dispute Resolution Act of 1998. The Clerk of Court, or such other person as may be designated from time to time by the Chief Judge, shall serve as the ADR coordinator. Under the direction of the ADR committee, the coordinator shall administer a program for recruitment, screening and training of attorneys to serve as neutrals.
- VI. The Rule is intended to be flexible so as to permit the court to adopt, from time to time, guidelines and policies for the administration of the ADR program. The procedures promulgated by the court for the implementation of the ADR program shall be maintained on file in the office of the Clerk.
- VII. Nothing in the Rule shall be construed to amend or modify the provisions of Local Civil Rule 53.2 (compulsory and voluntary arbitration with right of trial *de novo*). Local Civil Rule 53.2.1 (compulsory mediation) is repealed by separate order.

Explanatory Note

The Rule is intended to implement the provisions of the Alternative Dispute Resolution Act of 1998 and to demonstrate the long-standing commitment of the court and its bar to non-binding alternative dispute resolution, without, however, limiting the authority and discretion of the assigned judge. Certain civil actions are exempted from the Rule as cases not appropriate for ADR process pursuant to the Alternative Dispute Resolution Act of 1998.

Effective July 1, 2003